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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

File: EAC-01-187-51985

Office: Vermont Service Center

Date: JUN - 4 2002

IN RE: Petitioner:
Beneficiary:

Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(O)(i)

IN BEHALF OF PETITIONER: Self-represented

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The record will be remanded.

The petitioner is a Pennsylvania corporation operating a medical center. The beneficiary is a medical doctor. The petitioner seeks O-1 classification of the beneficiary, under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the "Act"), as an alien with extraordinary ability in science. The petitioner seeks to employ the beneficiary temporarily in the United States as a physician for a period of one year at a salary of \$120,000 per year.

The director denied the petition finding that the petitioner failed to submit evidence to establish that the beneficiary satisfied at least three of the criteria at 8 C.F.R. 214.2(o)(3)(iii)(B), which is the regulatory standard necessary for classification as an alien with extraordinary ability in science.

On appeal, the petitioner submitted additional documentation addressing 8 C.F.R. 214.2(o)(3)(iii)(B) and a copy of its contract with the beneficiary.

In this case, the director determined that the petitioner failed to submit the initial evidence necessary for O-1 classification set forth at 8 C.F.R. 214.2(o)(3)(iii). It is further noted that the petitioner failed to submit a copy of the written contract as required by 8 C.F.R. 214.2(o)(2)(ii)(B).

8 C.F.R. 103.2(b)(8) states that in instances where there is no evidence of ineligibility in the record, and initial evidence is missing, the Service shall request the initial evidence. The record does not reflect that the director issued a request for the required initial evidence.

The petitioner has now submitted documentation addressing those requirements. Accordingly, the record will be remanded for consideration of the additional evidence and issuance of a new decision.

ORDER: The decision of November 5, 2001 is withdrawn; the record is remanded.